



STAFF REPORT

AGENDA ITEM: 9

CASE NUMBER: SUP 14-228 (Correspondence)

L.U.C.B MEETING: March 9, 2017

LOCATION: 3695 Austin Peay Hwy

OWNER/APPLICANT: Refuge Memphis, Inc.

REPRESENTATIVE: Lou Katzerman, Tower Ventures

REQUEST: Major modification to allow a time extension for an approved cell tower

AREA: 1.17 acres

EXISTING LAND USE & ZONING: Commercial Mixed Use-1 (CMU-1)

CONCLUSIONS

1. Applicant is requesting a time extension to exceed the 24-month limitation on discontinuance of approved special use permits. Per the Unified Development Code, UDC, Sub Section 9.6.14B states that special use permits shall be implemented within 24 months of final approval or an application filed for a time extension before the date of expiration or within 12 months after the date of expiration. Only one 24-month time extension is permitted.
2. The Memphis and Shelby County Land Use Control Board held a public hearing on October 9, 2014, and recommended approving the special use permit as recommended by the Office of Planning and Development. The special use permit was granted by the Memphis City Council on November 4, 2014.

RECOMMENDATION

Approval

Staff Writer: *Kirstin Kettley*

E-mail: kirstin.kettley@memphistn.gov

NOTICE

In accordance with Sub-Section 9.3.4A of the Unified Development Code, notice for public hearing is required to be mailed and signs posted. A total of 49 notices were mailed on February 24, 2017, and 1 sign posted on the subject site.

STAFF ANALYSIS

The subject site is a church owned property on Austin Peay Highway in Memphis. The surrounding land uses are predominately residential and commercial. On October 9, 2014, the request for a 170-foot CMCS Tower within a Commercial Mixed Use District was approved by the Land Use Control Board. On November 4, 2014, City Council granted approval of the special use permit with the following conditions:

1. The structure and tower will be built according to the submitted site plan unless other modifications are approved by the planning director.
2. The tower shall be a flush mount type limited to 170' in height.
3. The lease area shall be surrounded by a six-foot (6') site-proof fence and landscaping on the west, south and east sides.
4. The 20' landscape screen area adjacent to the residential properties shall be restored and maintained in accordance with the recorded subdivision plat.
5. Existing on-site trees shall be preserved to the maximum extent practicable.

Per the Unified Development Code, UDC, Sub Section 9.6.14B states that special use permits shall be implemented within 24 months of final approval or an application filed for a time extension before the date of expiration or within 12 months after the date of expiration. Only one 24-month time extension is permitted.

RECOMMENDATION

Approval

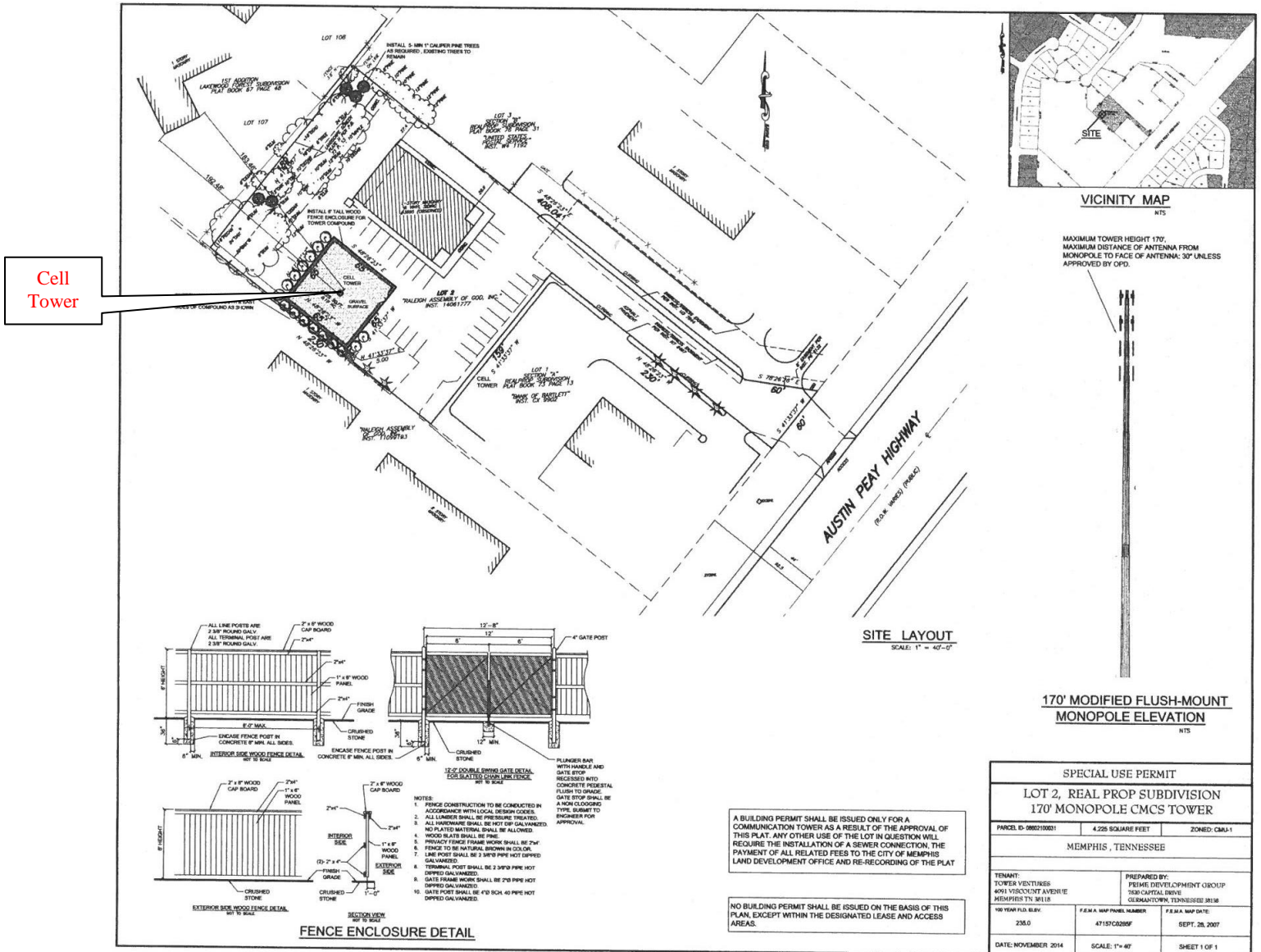
Aerial of Site



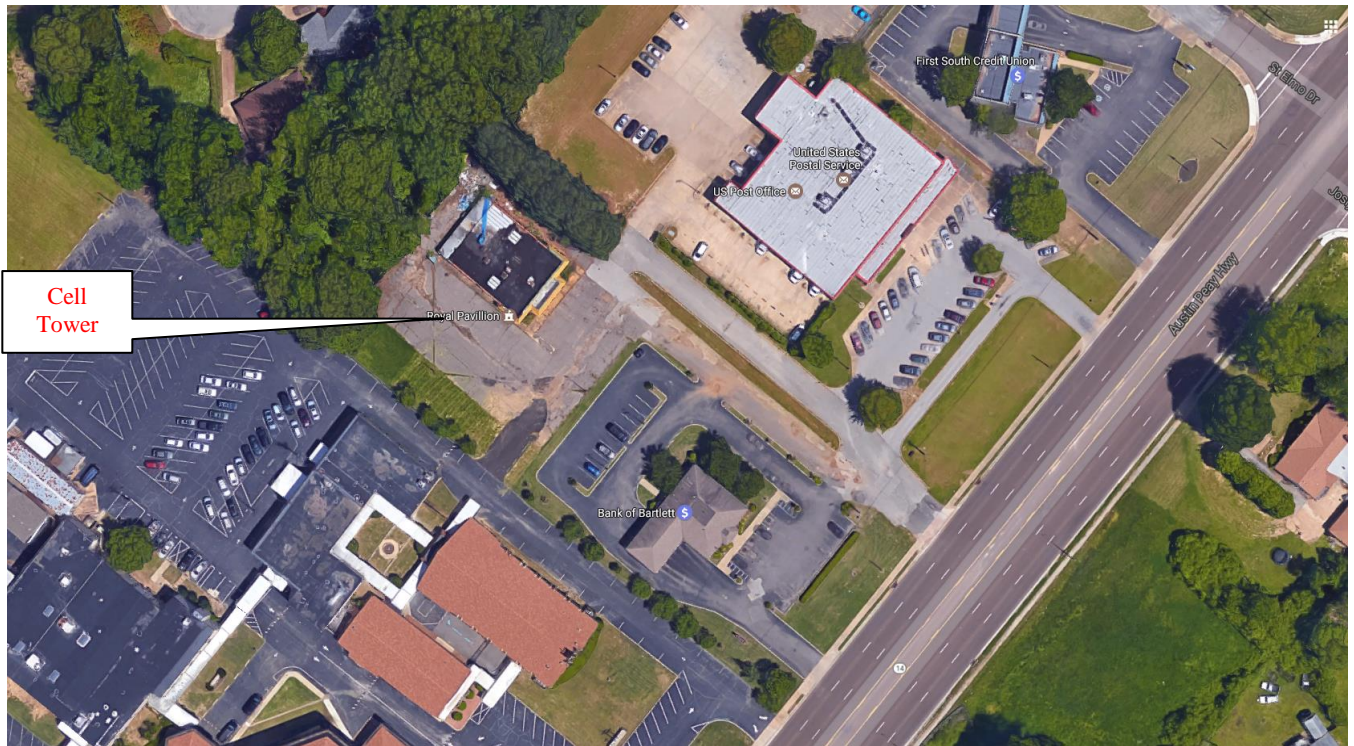
Zoning Map



Site Plan



Tower Location



DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City/County Engineer:	No comments.
City/County Fire Division:	No comments received.
City Real Estate:	No comments received.
City/County Health Department:	No comments.
Shelby County Schools:	No comments received
Construction Code Enforcement:	No comments received.
Memphis Light, Gas and Water:	No comments received.
Neighborhood Associations:	No comments received.

APPLICATION



Memphis and Shelby County
Office of Planning and Development

CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR SPECIAL USE PERMIT
MAJOR MODIFICATION APPROVAL
(CORRESPONDENCE CASE)

Date: 01-03-2016

Case #: SUP 14-228

PLEASE TYPE OR PRINT

Property Owner of Record: Refuge Memphis, Inc. C/O Pastor Don Hardy Phone #: 901-386-5505
Mailing Address: 3683 Austin Peay Hwy City/State: Memphis, TN Zip 38128
Property Owner E-Mail Address: dlhardy59@gmail.com
Applicant: TV6 Signal Source Towers (Tower Ventures) Phone # 901-794-9494, x-117
Mailing Address: 4091 Viscount Ave City/State: Memphis, TN Zip 38118
Applicant E- Mail Address: lou@towerventures.com
Representative: Lou Katzerman Phone #: 901-794-9494, x-117
Mailing Address: 4091 Viscount Ave City/State: Memphis, TN Zip 38118
Representative E-Mail Address: lou@towerventures.com
Engineer/Surveyor: Prime Development Group, Inc Phone # 901-753- 6840
Mailing Address: 7520 Capital Drive Ste: 200 City/State: Germantown, TN Zip 38138
Engineer/Surveyor E-Mail Address: mfahy@pdg-m.com
Street Address Location: 3695 Austin Peay Highway Memphis, TN 38128 Parcel # 086021 00031
Distance to nearest intersecting street: +/- 682' South of Joslyn Street

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	<u>1.17 AC</u>		
Existing Zoning:	<u>CMU-1</u>		
Existing Use of Property	<u>Commercial</u>		
Requested Use of Property	<u>Time EXT SUP14-228</u>		
	<u>CMCS Tower</u>		

Major Modification(s): Time extensions (see Subsection 9.6.14B of the UDC) to and requests to exceed the 24-month limitation on discontinuance (see subsection 9.6.14C) of approved special use permits shall be processed as a major modification, subject to the provisions of Chapter 9.16. Yes X No

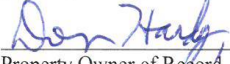

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

9.16.3 Findings of Fact

The appropriate authority, pursuant to the individual Chapters of this Article, shall make the following findings in its approval, approval with conditions or rejection of an extension:

- A. Changed conditions of the neighborhood and area in which the time extension is being made, as compared to conditions present during the original approval;
- B. Changed conditions of the site in which the request is being made, as compared to conditions present during the original approval;
- C. Any administrative or legislative policy, ordinance, regulation or comprehensive or neighborhood plan that has been adopted since the time of the original approval; and
- D. The scope of construction, such as the size of the site or building, involved with the original approval.

I (we) hereby make application for the Correspondence Case described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

 Property Owner of Record	TREAS 1/4/17 Date	 Applicant	1/9/2017 Date
REFUGE MEMPHIS, INC			

REQUIRED MAJOR MODIFICATIONS: The following revisions to existing Special Use Permits shall be processed as Major Modifications. Please note that any revision to a Special Use Permit that varies from any standard of the UDC will require the submission of a variance application to the Board of Adjustment.

- A. Any request for a time extension, provided the Special Use Permit has not expired (see Sub-Section 9.6.12B of the UDC).
- B. A 5% increase in the number of housing units in a development approved by Special Use Permit (see Item 9.6.12C(1)(a) of the UDC).
- C. Any revisions to a structure, dedicated street, easement or landscape screen in a Special Use Permit that exceed the following (see Item 9.6.12C(1)(b) of the UDC):
 - 1. 25 feet or more for site plans of two or less acres;
 - 2. 50 feet or more for site plans of more than two but less than eight acres;
 - 3. 100 feet or more for site plans of eight acres but less than 20 acres; and
 - 4. 150 feet or more for site plans of 20 acres or more.
- D. Any other revisions to a Special Use Permit site plan that would otherwise require the issuance of a Special Exception, such as increased height of more than 10% (see Section 9.14.1 of the UDC).

GUIDE FOR SUBMITTING

SPECIAL USE PERMIT MAJOR MODIFICATION APPROVAL/CORRESPONDENCE CASE

- A. **THE APPLICATION** - Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:
 - 1) This application, 8.5"x11" Site/Concept Plan, Plot Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Site/Concept Plan (folded) and a copy of Deed(s).

LETTER OF INTENT

TV6 Signal Source Towers LLC

4091 Viscount Ave Memphis, TN 38118-6106

Phone: 901 794-9494

Fax: 901 366-5736

1/10/2017

Memphis and Shelby County Office of Planning and Development
City Hall Room 468
C/O Mr. Josh Whitehead
125 North Mid-American Mall
Memphis, TN 38103-2084

RE: Letter of Intent to Request a Major Modification, Time Extension for SUP 14-228. The Original SUP Approval called for a One Hundred Seventy Foot (170') Monopole Communications ("CMCS") Tower at 3695 Austin Peay Highway Memphis, TN 38128 (Parcel ID #086021 00031)

Mr. Josh Whitehead:

TV6 Signal Source Towers LLC of 4091 Viscount Avenue Memphis, TN 38118 proposes a Time Major Modification, Time Extension for SUP #14-228. The Shelby County Commission approved the original SUP on November 4th, 2014. The time expired on the County Commission's approval expired on November 3rd 2016.

Time Extension Request:

TV6 Signal Source Towers, LLC respectfully asks that we be granted an extension of two additional years under UDC Section: 9.6.1B:

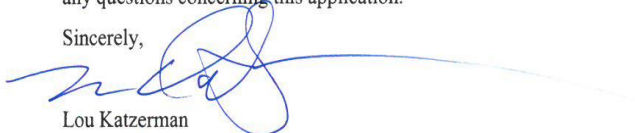
"9.6.14B:

Excluding planned developments, special use permits shall be implemented within 24 months of final approval or such permits shall be void, unless conditioned otherwise. Where applicable, an application for a time extension may be filed as a Major Modification subject to Sub-Section 9.6.12B. An application for a time extension shall be filed before the date of expiration or within 12 months after the date of expiration and shall further be subject to the provisions of Chapter 9.16. Only one 24-month time extension is permitted."

There is a need for improved cellular coverage in this area of Memphis. The CMCS equipment planned for the proposed tower cannot be accommodated on any existing structures because there are no appropriate existing structures or pending structures to accommodate the planned equipment, taking into account, among other factors, the licensees' system requirements. Therefore, the proposed tower is needed so that the licensees can provide better cellular coverage and can improve its E911 emergency services network. The citizens of Memphis benefit each time a licensee expands its network coverage because each site enhances the licensee's ability to provide emergency response services.

TV6 Signal Source Towers, LLC appreciates the Memphis and Shelby County Office of Planning and Development's consideration of this application. Please contact me at (901) 794-9494 Ext 117 if you have any questions concerning this application.

Sincerely,



Lou Katzerman

Site Acquisition and Zoning Manager

TV6 Signal Source Towers, LLC